

### **REMARKS**

Applicants respectfully request entry of the following amendments and remarks in response to the Office Action mailed April 29, 2009. Applicants respectfully submit that the amendments and remarks contained herein place the instant application in condition for allowance.

Upon entry of the amendments in this response, claims 5 – 11, 20 – 26, 38, and 44 – 46 are pending. In particular, Applicants amend claims 5, 20, 38, and 44 – 46. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

#### **I. Claim Objections**

The Office Action objects to claim 44 for allegedly depending from a canceled claim. Applicants amend claim 44, as indicated above and submit that this amendment overcomes this objection.

#### **II. Rejections Under 35 U.S.C. §101**

The Office Action indicates that claims 20 – 26 stand rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. More specifically, the Office Action argues that by claiming a computer readable medium, Applicants include both statutory and non-statutory (*e.g.*, propagation waves) as part of the claim. Applicants respectfully disagree. More specifically, claim 20 clearly recites that the computer-readable medium “stores a program.” As a propagation wave cannot store a program, but can only propagate a signal, Applicants have clearly distinguished claims 20 – 26 from non-statutory embodiments. As an additional measure, Applicants amend claim 20 to tie a claim element to another statutory class of (*i.e.*, a computer). For at least these reasons, claims 20 – 26 fulfill all the requirements of 35 U.S.C. §101.

**III. Rejections Under 35 U.S.C. §112**

The Office Action indicates that claims 44 – 46 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicants amend claims 44 – 46, as indicated above. Applicants submit that claims 44 – 46, as amended, fulfill all the requirements of 35 U.S.C. §112.

**IV. Rejections Under 35 U.S.C. §103**

**A. Claim 5 is Allowable Over *Klassen*, *Malik*, and *Roskind***

The Office Action indicates that claim 5 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Publication Number 20050066070 ("*Klassen*") in view of U.S. Patent Number 7,007,085 ("*Malik*") and further in view of U.S. Patent Publication Number 2003/0065721 ("*Roskind*"). Applicants respectfully traverse this rejection for at least the reason that *Klassen* in view of *Malik* and *Roskind* fail to disclose, teach, or suggest all of the elements of claim 5. More specifically, claim 5 recites:

A communication method comprising:  
providing for display a first instant messaging (IM) message of an IM session between a user and a contact;  
calculating an elapsed time from the displaying of the first IM message;  
providing for display whether a second IM message has been displayed within the elapsed time;  
providing for display a first time indication, the first time indication being associated with the first IM message, the first time indication being displayed in response to determining that the second IM message has not been displayed within the elapsed time, the first time indication displaying a time that the first message was sent;  
querying the user to determine whether to include a termination time indication for an IM log of the IM session, the termination time indication indicating a time the IM session terminated;  
providing a status bar area within the IM chat window, the status bar area being distinct from the IM dialogue box; and  
***selectively providing for display a most-recently-displayed IM time in the status bar area, the most-recently-displayed IM time being associated with the most-recently-displayed IM message such that when a new message is communicated, the most-recently-displayed IM time is changed to reflect communication of the new message.***  
(Emphasis added).

Applicants respectfully submit that claim 5 is allowable over the cited art for at least the reason that none of *Klassen*, *Malik*, and *Roskind*, taken alone or in combination, discloses, teaches, or suggests a "communication method comprising... ***selectively providing for display a most-recently-displayed IM time in the status bar area, the most-recently-displayed IM time being associated with the most-recently-displayed IM message such that when a new message is communicated, the most-recently-displayed IM time is changed to reflect communication of the new message***" as recited in claim 5. More specifically, the Office Action admits "Klassen, Malik, and Roskind did not explicitly state wherein the display of the timestamp for the most recently transmitted message is in a status bar area that is distinct from the IM dialog box" (OA page 8, line 9).

However, the Office Action additionally argues "[s]ince it has been shown above that the teachings of *Klassen* disclosed that the display of the most recent time stamp is performed in order to save display space, it would have been obvious to one of ordinary skill in the art at the time the invention was made to place this timestamp in any area of the instant message as such placement still requires the room to display this timestamp, and therefore, whenever the timestamp is placed, the same amount of display space is saved" (OA page 8, line 16). Applicants respectfully disagree. More specifically, *Klassen* discloses timestamps within the dialog box. As the timestamps within the dialog box change position as more messages are communicated, in *Klassen* a user has to locate the timestamp in the dialog box. Additionally, even if the most recent timestamp is located in a lower portion of the dialog box, space in the dialog box is utilized for the timestamp, thus reducing the space for the communication. Further, *Klassen* appears to disclose that the timestamps are placed in the dialog box permanently, whereas in claim 5, ***"when a new message is communicated, the most-recently-displayed IM time is changed to reflect communication of the new message."*** Consequently, as admitted by the Office Action, none of the cited references, taken alone or in combination, suggest a "communication method comprising... ***selectively providing for display a most-recently-displayed IM time in the status bar area, the most-recently-displayed IM time being associated with the most-recently-displayed IM message such that when a new message is communicated, the most-recently-displayed IM time is changed to reflect communication of the new message***" as recited in claim 5. For at least these reasons, the Office Action has failed to meet the requirements for a proper 35 U.S.C. §103 rejection and claim 5 is allowable.

**B. Claim 20 is Allowable Over *Klassen*, *Malik*, and *Roskind***

The Office Action indicates that claim 20 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Publication Number 20050066070 ("*Klassen*") in view of U.S. Patent Number 7,007,085 ("*Malik*") and further in view of U.S. Patent Publication Number 2003/0065721 ("*Roskind*"). Applicants respectfully traverse this rejection for at least the reason that *Klassen* in view of *Malik* and *Roskind* fail to disclose, teach, or suggest all of the elements of claim 20. More specifically, claim 20 recites:

A computer-readable medium that stores a program, such that when executed by a computer, the computer performs at least the following:

provide, by the computer, for display a first instant messaging (IM) message of an IM session between a user and a contact;

calculate an elapsed time from the computer-readable code adapted to instruct a programmable device to display of the first IM message;

determine whether a second IM message has been displayed within the elapsed time;

provide for display a first time indication, the first time indication being associated with the first IM message, the first time indication being displayed in response to computer-readable code adapted to instruct a programmable device to determine that the second IM message has not been displayed within the elapsed time, the first time indication displaying a time that the first message was sent;

query the user to determine whether to include a termination time indication for an IM log of the IM session, the termination time indication indicating a time the IM session terminated;

provide a status bar area within the IM chat window, the status bar area being distinct from the IM dialogue box; and

***selectively provide for display a most-recently-displayed IM time in the status bar area, the most-recently-displayed IM time being associated with the most-recently-displayed IM message, such that when a new message is communicated, the most-recently-displayed IM time is changed to reflect communication of the new message.***

***(Emphasis added).***

Applicants respectfully submit that claim 20 is allowable over the cited art for at least the reason that none of *Klassen*, *Malik*, and *Roskind*, taken alone or in combination, discloses,

teaches, or suggests a "computer-readable medium that stores a program, such that when executed by a computer, the computer performs at least the following... ***selectively provide for display a most-recently-displayed IM time in the status bar area, the most-recently-displayed IM time being associated with the most-recently-displayed IM message, such that when a new message is communicated, the most-recently-displayed IM time is changed to reflect communication of the new message***" as recited in claim 20. More specifically, the Office Action admits "Klassen, Malik, and Roskind did not explicitly state wherein the display of the timestamp for the most recently transmitted message is in a status bar area that is distinct from the IM dialog box" (OA page 8, line 9).

However, the Office Action additionally argues "[s]ince it has been shown above that the teachings of Klassen disclosed that the display of the most recent time stamp is performed in order to save display space, it would have been obvious to one of ordinary skill in the art at the time the invention was made to place this timestamp in any area of the instant message as such placement still requires the room to display this timestamp, and therefore, whenever the timestamp is placed, the same amount of display space is saved" (OA page 8, line 16). Applicants respectfully disagree. More specifically, *Klassen* discloses timestamps within the dialog box. As the timestamps within the dialog box change position as more messages are communicated, in *Klassen* a user has to locate the timestamp in the dialog box. Additionally, even if the most recent timestamp is located in a lower portion of the dialog box, space in the dialog box is utilized for the timestamp, thus reducing the space for the communication. Further, *Klassen* appears to disclose that the timestamps are placed in the dialog box permanently, whereas in claim 20, "***when a new message is communicated, the most-recently-displayed IM time is changed to reflect communication of the new message.***" Consequently, as admitted by the Office Action, none of the cited references, taken alone or in combination, suggest a "computer-readable medium that stores a program, such that when

executed by a computer, the computer performs at least the following... ***selectively provide for display a most-recently-displayed IM time in the status bar area, the most-recently-displayed IM time being associated with the most-recently-displayed IM message, such that when a new message is communicated, the most-recently-displayed IM time is changed to reflect communication of the new message***" as recited in claim 20. For at least these reasons, the Office Action has failed to meet the requirements for a proper 35 U.S.C. §103 rejection and claim 20 is allowable.

**C. Claim 38 is Allowable Over *Klassen*, *Malik*, and *Roskind***

The Office Action indicates that claim 38 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Publication Number 20050066070 ("*Klassen*") in view of U.S. Patent Number 7,007,085 ("*Malik*") and further in view of U.S. Patent Publication Number 2003/0065721 ("*Roskind*"). Applicants respectfully traverse this rejection for at least the reason that *Klassen* in view of *Malik* and *Roskind* fail to disclose, teach, or suggest all of the elements of claim 38. More specifically, claim 38 recites:

A communication system comprising:

a memory component that stores at least the following:

message-display logic configured to provide for display a first instant messaging (IM) message of an IM session between a user and a contact;

time-calculation logic configured to calculate an elapsed time from the display of the first IM message;

determination logic configured to determine whether a second IM message has been displayed within the elapsed time;

time-display logic configured to provide for display a first time indication, the first time indication being associated with the first IM message, the first time indication being displayed in response to determine that the second IM message has not been displayed within the elapsed time, the first time indication displaying the time the first message was sent;

query logic configured to query the user to determine whether to include a termination time indication for an IM log of the IM session, the termination time indication indicating a time the IM session terminated;

status bar logic configured to provide a status bar area within the IM chat window, the status bar area being distinct from the IM dialogue box; and

***providing logic configured to selectively provide for display a most-recently-displayed IM time in the status bar area, the most-recently-displayed IM time being associated with the most-recently-displayed IM message, such that when a new message is communicated, the most-recently-displayed IM time is changed to reflect communication of the new message.***

***(Emphasis added).***

Applicants respectfully submit that claim 38 is allowable over the cited art for at least the reason that none of *Klassen*, *Malik*, and *Roskind*, taken alone or in combination, discloses, teaches, or suggests a "communication system comprising... ***providing logic configured to selectively provide for display a most-recently-displayed IM time in the status bar area, the most-recently-displayed IM time being associated with the most-recently-displayed IM message, such that when a new message is communicated, the most-recently-displayed IM time is changed to reflect communication of the new message***" as recited in claim 38. More specifically, the Office Action admits "*Klassen*, *Malik*, and *Roskind* did not



explicitly state wherein the display of the timestamp for the most recently transmitted message is in a status bar area that is distinct from the IM dialog box" (OA page 8, line 9).

However, the Office Action additionally argues "[s]ince it has been shown above that the teachings of *Klassen* disclosed that the display of the most recent time stamp is performed in order to save display space, it would have been obvious to one of ordinary skill in the art at the time the invention was made to place this timestamp in any area of the instant message as such placement still requires the room to display this timestamp, and therefore, whenever the timestamp is placed, the same amount of display space is saved" (OA page 8, line 16).

Applicants respectfully disagree. More specifically, *Klassen* discloses timestamps within the dialog box. As the timestamps within the dialog box change position as more messages are communicated, in *Klassen* a user has to locate the timestamp in the dialog box. Additionally, even if the most recent timestamp is located in a lower portion of the dialog box, space in the dialog box is utilized for the timestamp, thus reducing the space for the communication.

Further, *Klassen* appears to disclose that the timestamps are placed in the dialog box permanently, whereas in claim 38, **"when a new message is communicated, the most-recently-displayed IM time is changed to reflect communication of the new message."**

Consequently, as admitted by the Office Action, none of the cited references, taken alone or in combination, suggest a "communication system comprising... **providing logic configured to selectively provide for display a most-recently-displayed IM time in the status bar area, the most-recently-displayed IM time being associated with the most-recently-displayed IM message, such that when a new message is communicated, the most-recently-displayed IM time is changed to reflect communication of the new message**" as recited in claim 38. For at least these reasons, the Office Action has failed to meet the requirements for a proper 35 U.S.C. §103 rejection and claim 38 is allowable.

**D. Claims 6 – 11, 21 – 26, and 44 – 46 are Allowable Over *Klassen*, *Malik*, and *Roskind***

The Office Action indicates that claims 6 – 11, 21 – 26, and 44 – 46 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Publication Number 20050066070 ("*Klassen*") in view of U.S. Patent Number 7,007,085 ("*Malik*") and further in view of U.S. Patent Publication Number 2003/0065721 ("*Roskind*"). Applicants respectfully traverse this rejection for at least the reason that *Klassen* in view of *Malik* and *Roskind* fail to disclose, teach, or suggest all of the elements of claims 6 – 11, 21 – 26, and 44 – 46. More specifically, dependent claims 6 – 11 and 44 are allowable for at least the reason that these claims depend from and include the elements of allowable independent claim 5. Dependent claims 21 – 26 and 46 are allowable for at least the reason that these claims depend from and include the elements of allowable independent claim 20. Further, dependent claim 46 is allowable for at least the reason that this claim depends from and includes the elements of allowable independent claim 38. *In re Fine, Minnesota Mining and Mfg. Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

**V. Allegedly Well Known Subject Matter**

Additionally, in rejecting claims 12 and 27, the Office Action argues "AAPA shows that it was well known in the art at the time the invention was made that instant messaging chat windows include status windows" (OA page 12, line 16). First, Applicants traverse the alleged finding of well known subject matter and submit that the subject matter noted above should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions, as required. Second, the subject matter of FIG. 2 (and other alleged AAPA) is not directed to each of the elements of claims 12 and 27. Third, Applicants note that claims 12 and 27 were canceled in a previous response, thus rendering this issue moot.

**CONCLUSION**

In light of the foregoing amendments and for at least the reasons set forth above, all objections and/or rejections have been traversed, rendered moot, and/or addressed, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and Official Notice, or statements interpreted similarly, should not be considered well-known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

/afb/

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